

“TITLE IX—GENERAL PROVISIONS

“PART A—DEFINITIONS

4 “SEC. 9101. DEFINITIONS.

5 “Except as otherwise provided, in this Act:

6 “(1) AVERAGE DAILY ATTENDANCE.—

7 “(A) IN GENERAL.—Except as provided
8 otherwise by State law or this paragraph, the
9 term ‘average daily attendance’ means—

10 “(i) the aggregate number of days of
11 attendance of all students during a school
12 year; divided by

13 “(ii) the number of days school is in
14 session during that year.

15 “(B) CONVERSION.—The Secretary shall
16 permit the conversion of average daily member-
17 ship (or other similar data) to average daily at-
18 tendance for local educational agencies in
19 States that provide State aid to local edu-
20 cational agencies on the basis of average daily
21 membership (or other similar data).

22 “(C) SPECIAL RULE.—If the local edu-
23 cational agency in which a child resides makes
24 a tuition or other payment for the free public
25 education of the child in a school located in an-

1 other school district, the Secretary shall, for the
2 purpose of this Act—

3 “(i) consider the child to be in attend-
4 ance at a school of the agency making the
5 payment; and

6 “(ii) not consider the child to be in at-
7 tendance at a school of the agency receiv-
8 ing the payment.

9 “(D) CHILDREN WITH DISABILITIES.—If a
10 local educational agency makes a tuition pay-
11 ment to a private school or to a public school
12 of another local educational agency for a child
13 with a disability, as defined in section 602 of
14 the Individuals with Disabilities Education Act,
15 the Secretary shall, for the purpose of this Act,
16 consider the child to be in attendance at a
17 school of the agency making the payment.

18 “(2) AVERAGE PER-PUPIL EXPENDITURE.—The
19 term ‘average per-pupil expenditure’ means, in the
20 case of a State or of the United States—

21 “(A) without regard to the source of
22 funds—

23 “(i) the aggregate current expendi-
24 tures, during the third fiscal year pre-
25 ceding the fiscal year for which the deter-

1 mination is made (or, if satisfactory data
2 for that year are not available, during the
3 most recent preceding fiscal year for which
4 satisfactory data are available) of all local
5 educational agencies in the State or, in the
6 case of the United States, for all States
7 (which, for the purpose of this paragraph,
8 means the 50 States and the District of
9 Columbia); plus

10 “(ii) any direct current expenditures
11 by the State for the operation of those
12 agencies; divided by

13 “(B) the aggregate number of children in
14 average daily attendance to whom those agen-
15 cies provided free public education during that
16 preceding year.

17 “(3) BEGINNING TEACHER.—The term ‘begin-
18 ning teacher’ means a teacher in a public school who
19 has been teaching less than a total of 3 complete
20 school years.

21 “(4) CHILD.—The term ‘child’ means any per-
22 son within the age limits for which the State pro-
23 vides free public education.

24 “(5) CHILD WITH A DISABILITY.—The term
25 ‘child with a disability’ has the same meaning given

1 that term in section 602 of the Individuals with Dis-
2 abilities Education Act.

3 “(6) COMMUNITY-BASED ORGANIZATION.—The
4 term ‘community-based organization’ means a public
5 or private nonprofit organization of demonstrated ef-
6 fectiveness that—

7 “(A) is representative of a community or
8 significant segments of a community; and

9 “(B) provides educational or related serv-
10 ices to individuals in the community.

11 “(7) CONSOLIDATED LOCAL APPLICATION.—
12 The term ‘consolidated local application’ means an
13 application submitted by a local educational agency
14 pursuant to section 9305.

15 “(8) CONSOLIDATED LOCAL PLAN.—The term
16 ‘consolidated local plan’ means a plan submitted by
17 a local educational agency pursuant to section 9305.

18 “(9) CONSOLIDATED STATE APPLICATION.—
19 The term ‘consolidated State application’ means an
20 application submitted by a State educational agency
21 pursuant to section 9302.

22 “(10) CONSOLIDATED STATE PLAN.—The term
23 ‘consolidated State plan’ means a plan submitted by
24 a State educational agency pursuant to section
25 9302.

1 “(11) CORE ACADEMIC SUBJECTS.—The term
2 ‘core academic subjects’ means English, reading or
3 language arts, mathematics, science, foreign lan-
4 guages, civics and government, economics, arts, his-
5 tory, and geography.

6 “(12) COUNTY.—The term ‘county’ means one
7 of the divisions of a State used by the Secretary of
8 Commerce in compiling and reporting data regard-
9 ing counties.

10 “(13) COVERED PROGRAM.—The term ‘covered
11 program’ means each of the programs authorized
12 by—

13 “(A) part A of title I;

14 “(B) subpart 3 of part B of title I;

15 “(C) part C of title I;

16 “(D) part D of title I;

17 “(E) part F of title I;

18 “(F) part A of title II;

19 “(G) part D of title II;

20 “(H) part A of title III;

21 “(I) part A of title IV;

22 “(J) part B of title IV;

23 “(K) part A of title V; and

24 “(L) subpart 2 of part B of title VI.

1 “(14) CURRENT EXPENDITURES.—The term
2 ‘current expenditures’ means expenditures for free
3 public education—

4 “(A) including expenditures for adminis-
5 tration, instruction, attendance and health serv-
6 ices, pupil transportation services, operation
7 and maintenance of plant, fixed charges, and
8 net expenditures to cover deficits for food serv-
9 ices and student body activities; but

10 “(B) not including expenditures for com-
11 munity services, capital outlay, and debt serv-
12 ice, or any expenditures made from funds re-
13 ceived under title I and part A of title V.

14 “(15) DEPARTMENT.—The term ‘Department’
15 means the Department of Education.

16 “(16) DISTANCE LEARNING.—The term ‘dis-
17 tance learning’ means the transmission of edu-
18 cational or instructional programming to geographi-
19 cally dispersed individuals and groups via tele-
20 communications.

21 “(17) EDUCATIONAL SERVICE AGENCY.—The
22 term ‘educational service agency’ means a regional
23 public multiservice agency authorized by State stat-
24 ute to develop, manage, and provide services or pro-
25 grams to local educational agencies.

1 “(18) ELEMENTARY SCHOOL.—The term ‘ele-
2 mentary school’ means a nonprofit institutional day
3 or residential school, including a public elementary
4 charter school, that provides elementary education,
5 as determined under State law.

6 “(19) EXEMPLARY TEACHER.—The term ‘ex-
7 emplary teacher’ means a teacher who—

8 (A) is a highly qualified teacher such as a
9 master teacher;

10 (B) has been teaching for at least 5 years
11 in a public or private school or institution of
12 higher education;

13 (C) is recommended to be an exemplary
14 teacher by administrators and other teachers
15 who are knowledgeable about the individual’s
16 performance;

17 (D) is currently teaching and based in a
18 public school; and

19 (E) assists other teachers in improving in-
20 structional strategies, improves the skills of
21 other teachers, performs teacher mentoring, de-
22 velops curricula, and offers other professional
23 development.

24 “(20) FAMILY LITERACY SERVICES.—The term
25 ‘family literacy services’ means services provided to

1 participants on a voluntary basis that are of suffi-
2 cient intensity in terms of hours, and of sufficient
3 duration, to make sustainable changes in a family,
4 and that integrate all of the following activities:

5 “(A) Interactive literacy activities between
6 parents and their children.

7 “(B) Training for parents regarding how
8 to be the primary teacher for their children and
9 full partners in the education of their children.

10 “(C) Parent literacy training that leads to
11 economic self-sufficiency.

12 “(D) An age-appropriate education to pre-
13 pare children for success in school and life ex-
14 periences.

15 “(21) FREE PUBLIC EDUCATION.—The term
16 ‘free public education’ means education that is
17 provided—

18 “(A) at public expense, under public super-
19 vision and direction, and without tuition charge;
20 and

21 “(B) as elementary school or secondary
22 school education as determined under applicable
23 State law, except that the term does not include
24 any education provided beyond grade 12.

1 “(22) GIFTED AND TALENTED.—The term
2 ‘gifted and talented’, when used with respect to stu-
3 dents, children, or youth, means students, children,
4 or youth who give evidence of high achievement ca-
5 pability in areas such as intellectual, creative, artis-
6 tic, or leadership capacity, or in specific academic
7 fields, and who need services or activities not ordi-
8 narily provided by the school in order to fully de-
9 velop those capabilities.

10 “(23) HIGHLY QUALIFIED.—The term ‘highly
11 qualified’ teacher’—

12 “(A) when used with respect to any public
13 elementary school or secondary school teacher
14 means that—

15 “(i) the teacher has obtained full
16 State certification as a teacher (including
17 certification obtained through alternative
18 routes to certification) or passed the State
19 teacher licensing exam, and holds a license
20 to teach in such State, except that when
21 used with respect to any teacher teaching
22 in a public charter school, means that the
23 teacher meets the requirements set forth in
24 the State’s public charter school law; and

1 “(ii) the teacher has not had certifi-
2 cation or licensure requirements waived on
3 an emergency, temporary, or provisional
4 basis;

5 “(B) when used with respect to—

6 “(i) an elementary school teacher who
7 is **【new to the profession】**, means that the
8 teacher holds a bachelor’s degree and has
9 demonstrated, by passing a rigorous State
10 test or tests, subject knowledge and teach-
11 ing skills in reading, writing, mathematics,
12 and other areas of the basic elementary
13 school curriculum;

14 “(ii) a middle or secondary school
15 teacher who is **【new to the profession】**,
16 means that the teacher holds at least a
17 bachelor’s degree and demonstrates a high
18 level of competency in each of the subject
19 areas in which the teacher teaches
20 through—

21 “(I) a passing level of perform-
22 ance on a rigorous State academic
23 subject area test in each of the sub-
24 ject areas in which the teacher pro-
25 vides instruction; or

1 “(II) completion, in each of the
2 subject areas in which the teacher
3 provides instruction, of an academic
4 major, a graduate degree, **【successful**
5 **completion of】** coursework equivalent
6 to an undergraduate major, or ad-
7 vanced certification or credentialing;
8 and

9 “(C) when used with respect to an elemen-
10 tary, middle, or secondary school teacher who is
11 not **【new】** to the profession means that the
12 teacher holds a bachelor’s degree and has—

13 “(i) met the applicable standard in
14 clause (i) or (ii) of subparagraph (B),
15 (B)(i) or (ii), **【which includes an option for**
16 **a test】**; or

17 “(ii) demonstrated competence in all
18 the subjects the teacher teaches based on
19 a high objective uniform State standard of
20 evaluation that—

21 “(I) is set by the State for both
22 grade appropriate academic subject
23 area knowledge and teaching skills;

24 “(II) is aligned with State con-
25 tent and student academic achieve-

1 ment standards and developed in con-
2 sultation with core content specialists,
3 teachers, principals, and school ad-
4 ministrators;

5 “(III) provides objective, coher-
6 ent information about the teacher’s
7 attainment of core content knowledge
8 in the subject or subjects the teacher
9 teaches;

10 “(IV) is applied uniformly to all
11 teachers in the same subject and the
12 same grade level throughout the
13 State;

14 “(V) shall take into consider-
15 ation, but not be based primarily on,
16 the time the teacher has been teach-
17 ing in the subject area;

18 “(VI) shall be made available to
19 the public upon request; and

20 “(VII) may involve multiple, ob-
21 jective measures of teacher com-
22 petency.

23 “(24) INSTITUTION OF HIGHER EDUCATION.—
24 The term ‘institution of higher education’ has the

1 meaning given that term in section 101(a) of the
2 Higher Education Act of 1965.

3 “(25) LIMITED ENGLISH PROFICIENT.—The
4 term ‘limited English proficient’, when used with re-
5 spect to an individual, means an individual—

6 “(A) who is aged 3 through 21;

7 “(B) who is enrolled or preparing to enroll
8 in an elementary school or secondary school;

9 “(C)(i) who was not born in the United
10 States or whose native language is a language
11 other than English;

12 “(ii)(I) who is a Native American or Alas-
13 ka Native, or a native resident of the outlying
14 areas; and

15 “(II) who comes from an environment
16 where a language other than English has had
17 a significant impact on the individual’s level of
18 English language proficiency; or

19 “(iii) who is migratory, whose native lan-
20 guage is a language other than English, and
21 who comes from an environment where a lan-
22 guage other than English is dominant; and

23 “(D) whose difficulties in speaking, read-
24 ing, writing, or understanding the English lan-

1 guage may be sufficient to deny the
2 individual—

3 “(i) the ability to meet the State’s
4 proficient level of achievement on State as-
5 sessments described in section 1111(b)(3);

6 “(ii) the ability to successfully achieve
7 in classrooms where the language of in-
8 struction is English; or

9 “(iii) the opportunity to participate
10 fully in society.

11 “(26) LOCAL EDUCATIONAL AGENCY.—

12 “(A) IN GENERAL.—The term ‘local edu-
13 cational agency’ means a public board of edu-
14 cation or other public authority legally con-
15 stituted within a State for either administrative
16 control or direction of, or to perform a service
17 function for, public elementary school or sec-
18 ondary schools in a city, county, township,
19 school district, or other political subdivision of
20 a State, or for a combination of school districts
21 or counties that is recognized in a State as an
22 administrative agency for its public elementary
23 schools or secondary schools.

24 “(B) ADMINISTRATIVE CONTROL AND DI-
25 RECTION.—The term includes any other public

1 institution or agency having administrative con-
2 trol and direction of a public elementary school
3 or secondary school.

4 “(C) BIA SCHOOLS.—The term includes
5 an elementary school or secondary school fund-
6 ed by the Bureau of Indian Affairs but only to
7 the extent that including the school makes the
8 school eligible for programs for which specific
9 eligibility is not provided to the school in an-
10 other provision of law and the school does not
11 have a student population that is smaller than
12 the student population of the local educational
13 agency receiving assistance under this Act with
14 the smallest student population, except that the
15 school shall not be subject to the jurisdiction of
16 any State educational agency other than the
17 Bureau of Indian Affairs.

18 “(D) EDUCATIONAL SERVICE AGENCIES.—
19 The term includes educational service agencies
20 and consortia of those agencies.

21 “(E) STATE EDUCATIONAL AGENCY.—The
22 term includes the State educational agency in a
23 State in which the State educational agency is
24 the sole educational agency for all public
25 schools.

1 “(27) MENTORING.—The term ‘mentoring’, ex-
2 cept when used to refer to teacher mentoring, means
3 a process by which a responsible adult, postsec-
4 ondary student, or secondary school student works
5 with a child to provide a positive role model for the
6 child, to establish a supportive relationship with the
7 child, and to provide the child with academic assist-
8 ance and exposure to new experiences and examples
9 of opportunity that enhance the ability of the child
10 to become a responsible adult.

11 “(28) NATIVE AMERICAN AND NATIVE AMER-
12 ICAN LANGUAGE.—The terms ‘Native American’ and
13 ‘Native American language’ have the same meaning
14 given those terms in section 103 of the Native
15 American Languages Act of 1990.

16 “(29) OTHER STAFF.—The term ‘other staff’
17 means pupil services personnel, librarians, career
18 guidance and counseling personnel, education aides,
19 and other instructional and administrative per-
20 sonnel.

21 “(30) OUTLYING AREA.—The term ‘outlying
22 area’ means the United States Virgin Islands,
23 Guam, American Samoa, and the Commonwealth of
24 the Northern Mariana Islands, and for the purpose
25 of section 1121(b)(1) and any other discretionary

1 grant program **【under this Act?】**, includes the freely
2 associated states of the Republic of the Marshall Is-
3 lands, the Federated States of Micronesia, and the
4 Republic of Palau **【until agreed provisions for future**
5 United States education assistance under a separate
6 agreement for the extension of United States assist-
7 ance under the Compact of Free Association for
8 each of the freely associated States enters into effect
9 after the date of enactment of the No Child Left Be-
10 hind Act of 2001**】**. **【Please clarify】**

11 “(31) PARENT.—The term ‘parent’ includes a
12 legal guardian or other person standing in loco
13 parentis (such as a grandparent or stepparent with
14 whom the child lives, or a person who is legally re-
15 sponsible for the child’s welfare).

16 “(32) PARENTAL INVOLVEMENT.—The term
17 ‘parental involvement’ means the participation of
18 parents in regular, two-way, and meaningful commu-
19 nication involving student academic learning and
20 other school activities, including ensuring—

21 “(A) that parents play an integral role in
22 assisting their child’s learning;

23 “(B) that parents are encouraged to be ac-
24 tively involved in their child’s education at
25 school;

1 “(C) that parents are full partners in their
2 child’s education and are included, as appro-
3 priate, in decisionmaking and on advisory com-
4 mittees to assist in the education of their child;

5 “(D) the carrying out of other activities,
6 such as those described in section 1118.

7 “(33) POVERTY LINE.—The term ‘poverty line’
8 means the poverty line (as defined by the Office of
9 Management and Budget and revised annually in ac-
10 cordance with section 673(2) of the Community
11 Services Block Grant Act) applicable to a family of
12 the size involved.

13 “(34) PROFESSIONAL DEVELOPMENT.—The
14 term ‘professional development’—

15 “(A) includes activities that—

16 “(i) improve and increase teachers’
17 knowledge of the academic subjects the
18 teachers teach, and enable teachers to be-
19 come highly qualified;

20 “(ii) are an integral part of broad
21 schoolwide and districtwide educational im-
22 provement plans;

23 “(iii) give teachers, principals, and ad-
24 ministrators the knowledge and skills to
25 provide students with the opportunity to

1 meet challenging State academic content
2 standards and student academic achieve-
3 ment standards;

4 “(iv) improve classroom management
5 skills;

6 “(v)(I) are high quality, sustained, in-
7 tensive, and classroom-focused in order to
8 have a positive and lasting impact on class-
9 room instruction and the teacher’s per-
10 formance in the classroom; and

11 “(II) are not 1-day or short-term
12 workshops or conferences;

13 “(vi) support the recruiting, hiring,
14 and training of highly qualified teachers,
15 including teachers who became highly
16 qualified through State and local alter-
17 native routes to certification;

18 “(vii) advance teacher understanding
19 of effective instructional strategies that
20 are—

21 “(I) based on scientifically based
22 research (except that this subclause
23 shall not apply to activities carried
24 out under part D of title II); and

1 “(II) strategies for improving
2 student academic achievement or sub-
3 stantially increasing the knowledge
4 and teaching skills of teachers; and

5 “(viii) are aligned with and directly
6 related to—

7 “(I) State academic content
8 standards, student academic achieve-
9 ment standards, and assessments; and

10 “(II) the curricula and programs
11 tied to the standards described in sub-
12 clause (I) except that this subclause
13 shall not apply to activities described
14 **■**in clauses (ii) and (iii) of section
15 **2123(3)(C)■**;

16 “(ix) are developed with extensive par-
17 ticipation of teachers, principals, parents,
18 and administrators of schools to be served
19 under this Act;

20 “(x) are designed to give teachers of
21 limited English proficient children, and
22 other teachers and instructional staff, the
23 knowledge and skills to provide instruction
24 and appropriate language and academic
25 support services to those children, includ-

1 ing the appropriate use of curricula and
2 assessments;

3 “(xi) to the extent appropriate, pro-
4 vide training for teachers and principals in
5 the use of technology so that technology
6 and technology applications are effectively
7 used in the classroom to improve teaching
8 and learning in the curricula and core aca-
9 demic subjects in which the teachers teach;

10 “(xii) as a whole, are regularly evalu-
11 ated for their impact on increased teacher
12 effectiveness and improved student aca-
13 demic achievement, with the findings of
14 the evaluations used to improve the quality
15 of professional development;

16 “(xiii) provide instruction in methods
17 of teaching children with special needs;

18 “(xiv) include instruction in the use of
19 data and assessments to inform and in-
20 struct classroom practice; and

21 “(xv) include instruction in ways that
22 teachers, principals, pupil services per-
23 sonnel, and school administrators may
24 work more effectively with parents; and

25 “(B) may include activities that—

1 “(i) involve the forming of partner-
2 ships with institutions of higher education
3 to establish school-based teacher training
4 programs that provide prospective teachers
5 and beginning teachers with an oppor-
6 tunity to work under the guidance of expe-
7 rienced teachers and college faculty;

8 “(ii) create programs to enable para-
9 professionals (assisting teachers employed
10 by a local educational agency receiving as-
11 sistance under part A of title I) to obtain
12 the education necessary for those para-
13 professionals to become certified and li-
14 censed teachers; and

15 “(iii) provide follow-up training to
16 teachers who have participated in activities
17 described in subparagraph (A) or another
18 clause of this subparagraph that are de-
19 signed to ensure that the knowledge and
20 skills learned by the teachers are imple-
21 mented in the classroom.

22 “(35) PUBLIC TELECOMMUNICATIONS ENTI-
23 TY.—The term ‘public telecommunications entity’
24 has the meaning given that term in section 397(12)
25 of the Communications Act of 1934.

1 “(36) PUPIL SERVICES PERSONNEL; PUPIL
2 SERVICES.—

3 “(A) PUPIL SERVICES PERSONNEL.—The
4 term ‘pupil services personnel’ means school
5 counselors, school social workers, school psy-
6 chologists, and other qualified professional per-
7 sonnel involved in providing assessment, diag-
8 nosis, counseling, educational, therapeutic, and
9 other necessary services (including related serv-
10 ices as that term is defined in section 602 of
11 the Individuals with Disabilities Education Act)
12 as part of a comprehensive program to meet
13 student needs.

14 “(B) PUPIL SERVICES.—The term ‘pupil
15 services’ means the services provided by pupil
16 services personnel.

17 “(37) SCIENTIFICALLY BASED RESEARCH.—
18 The term ‘scientifically based research’—

19 “(A) means research that involves the ap-
20 plication of rigorous, systematic, and objective
21 procedures to obtain reliable and valid knowl-
22 edge relevant to education activities and pro-
23 grams; and

24 “(B) includes research that—

1 “(i) employs systematic, empirical
2 methods that draw on observation or ex-
3 periment;

4 “(ii) involves rigorous data analyses
5 that are adequate to test the stated
6 hypotheses and justify the general conclu-
7 sions drawn;

8 “(iii) relies on measurements or obser-
9 vational methods that provide reliable and
10 valid data across evaluators and observers,
11 across multiple measurements and observa-
12 tions, and across studies by the same or
13 different investigators;

14 “(iv) is evaluated using experimental
15 or quasi-experimental designs in which in-
16 dividuals, entities, programs, or activities
17 are assigned to different conditions and
18 with appropriate controls to evaluate the
19 effects of the condition of interest, with a
20 preference for random-assignment experi-
21 ments, or other designs to the extent that
22 those designs contain within-condition or
23 across-condition controls;

24 “(v) ensures that experimental studies
25 are presented in sufficient detail and clar-

1 ity to allow for replication or, at a min-
2 imum, offer the opportunity to build sys-
3 tematically on their findings; and

4 “(vi) has been accepted by a peer-re-
5 viewed journal or approved by a panel of
6 independent experts through a comparably
7 rigorous, objective, and scientific review.

8 “(38) SECONDARY SCHOOL.—The term ‘sec-
9 ondary school’ means a nonprofit institutional day or
10 residential school, including a public secondary char-
11 ter school, that provides secondary education, as de-
12 termined under State law, except that the term does
13 not include any education beyond grade 12.

14 “(39) SECRETARY.—The term ‘Secretary’
15 means the Secretary of Education.

16 “(40) STATE.—The term ‘State’ means each of
17 the 50 States, the District of Columbia, the Com-
18 monwealth of Puerto Rico, and each of the outlying
19 areas.

20 “(41) STATE EDUCATIONAL AGENCY.—The
21 term ‘State educational agency’ means the agency
22 primarily responsible for the State supervision of
23 public elementary schools and secondary schools.

24 “(42) TEACHER MENTORING.—The term
25 ‘teacher mentoring’ means activities that—

1 “(A) consist of structured guidance and
2 regular and ongoing support for teachers, espe-
3 cially beginning teachers, that—

4 “(i) are designed to help the teachers
5 continue to improve their practice of teach-
6 ing and to develop their instructional skills;
7 and

8 “(ii) as part of an ongoing develop-
9 mental induction process—

10 “(I) involve the assistance of an
11 exemplary teacher and other appro-
12 priate individuals from a school, local
13 educational agency, or institution of
14 higher education; and

15 “(II) may include coaching, class-
16 room observation, team teaching, and
17 reduced teaching loads; and

18 “(B) may include the establishment of a
19 partnership by a local educational agency with
20 an institution of higher education, another local
21 educational agency, a teacher organization, or
22 another organization.

23 “(43) TECHNOLOGY.—The term ‘technology’
24 means state-of-the-art technology products and serv-
25 ices.

1 **“SEC. 9102. APPLICABILITY OF TITLE.**

2 “Parts B, C, D, and E of this title do not apply to
3 title VIII of this Act.

4 **“SEC. 9103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS**
5 **OPERATED SCHOOLS.**

6 “For the purpose of any competitive program under
7 this Act—

8 “(1) a consortium of schools operated by the
9 Bureau of Indian Affairs;

10 “(2) a school operated under a contract or
11 grant with the Bureau of Indian Affairs in consor-
12 tium with another contract or grant school or a trib-
13 al or community organization; or

14 “(3) a Bureau of Indian Affairs school in con-
15 sortium with an institution of higher education, a
16 contract or grant school, or a tribal or community
17 organization,

18 shall be given the same consideration as a local edu-
19 cational agency.

20 **“PART B—FLEXIBILITY IN THE USE OF**
21 **ADMINISTRATIVE AND OTHER FUNDS**

22 **“SEC. 9201. CONSOLIDATION OF STATE ADMINISTRATIVE**
23 **FUNDS FOR ELEMENTARY AND SECONDARY**
24 **EDUCATION PROGRAMS.**

25 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

1 “(1) IN GENERAL.—A State educational agency
2 may consolidate the amounts specifically made avail-
3 able to it for State administration under one or
4 more of the programs under paragraph (2) if the
5 State educational agency can demonstrate that the
6 majority of its resources are derived from non-Fed-
7 eral sources.

8 “(2) APPLICABILITY.—This section applies to
9 any program under this Act under which funds are
10 authorized to be used for administration, and such
11 other programs as the Secretary may designate.

12 “(b) USE OF FUNDS.—

13 “(1) IN GENERAL.—A State educational agency
14 shall use the amount available under this section for
15 the administration of the programs included in the
16 consolidation under subsection (a).

17 “(2) ADDITIONAL USES.—A State educational
18 agency may also use funds available under this sec-
19 tion for administrative activities designed to enhance
20 the effective and coordinated use of funds under pro-
21 grams included in the consolidation under subsection
22 (a), such as—

23 “(A) the coordination of those programs
24 with other Federal and non-Federal programs;

1 “(B) the establishment and operation of
2 peer-review mechanisms under this Act;

3 “(C) the administration of this title;

4 “(D) the dissemination of information re-
5 garding model programs and practices;

6 “(E) technical assistance under any pro-
7 gram under this Act;

8 “(F) State-level activities designed to carry
9 out this title;

10 “(G) training personnel engaged in audit
11 and other monitoring activities; and

12 “(H) implementation of the Cooperative
13 Audit Resolution and Oversight Initiative of the
14 Department.

15 “(c) RECORDS.—A State educational agency that
16 consolidates administrative funds under this section shall
17 not be required to keep separate records, by individual
18 program, to account for costs relating to the administra-
19 tion of programs included in the consolidation under sub-
20 section (a).

21 “(d) REVIEW.—To determine the effectiveness of
22 State administration under this section, the Secretary may
23 periodically review the performance of State educational
24 agencies in using consolidated administrative funds under
25 this section and take such steps as the Secretary finds

1 appropriate to ensure the effectiveness of that administra-
2 tion.

3 “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State
4 educational agency does not use all of the funds available
5 to the agency under this section for administration, the
6 agency may use those funds during the applicable period
7 of availability as funds available under one or more pro-
8 grams included in the consolidation under subsection (a).

9 “(f) CONSOLIDATION OF FUNDS FOR STANDARDS
10 AND ASSESSMENT DEVELOPMENT.—In order to develop
11 challenging State academic standards and assessments, a
12 State educational agency may consolidate the amounts de-
13 scribed in subsection (a) for those purposes under title I.

14 **“SEC. 9202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.**

15 “A State educational agency that also serves as a
16 local educational agency shall, in its applications or plans
17 under this Act, describe how the agency will eliminate du-
18 plication in conducting administrative functions.

19 **“SEC. 9203. CONSOLIDATION OF FUNDS FOR LOCAL ADMIN-**
20 **ISTRATION.**

21 “(a) GENERAL AUTHORITY.—In accordance with
22 regulations of the Secretary and for any fiscal year, a local
23 educational agency, with the approval of its State edu-
24 cational agency, may consolidate and use for the adminis-
25 tration of one or more programs under this Act (or such

1 other programs as the Secretary shall designate) not more
2 than the percentage, established in each program, of the
3 total available for the local educational agency under those
4 programs.

5 “(b) STATE PROCEDURES.—Within 1 year after the
6 date of enactment of the No Child Left Behind Act of
7 2001, a State educational agency shall, in collaboration
8 with local educational agencies in the State, establish pro-
9 cedures for responding to requests from local educational
10 agencies to consolidate administrative funds under sub-
11 section (a) and for establishing limitations on the amount
12 of funds under those programs that may be used for ad-
13 ministration on a consolidated basis.

14 “(c) CONDITIONS.—A local educational agency that
15 consolidates administrative funds under this section for
16 any fiscal year shall not use any other funds under the
17 programs included in the consolidation for administration
18 for that fiscal year.

19 “(d) USES OF ADMINISTRATIVE FUNDS.—A local
20 educational agency that consolidates administrative funds
21 under this section may use the consolidated funds for the
22 administration of the programs and for uses, at the school
23 district and school levels, comparable to those described
24 in section 9201(b)(2).

1 “(e) RECORDS.—A local educational agency that con-
2 solidates administrative funds under this section shall not
3 be required to keep separate records, by individual pro-
4 gram, to account for costs relating to the administration
5 of the programs included in the consolidation.

6 **“SEC. 9204. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**
7 **OF THE INTERIOR FUNDS.**

8 “(a) GENERAL AUTHORITY.—

9 “(1) TRANSFER.—The Secretary shall transfer
10 to the Department of the Interior, as a consolidated
11 amount for covered programs, the Indian education
12 programs under part A of title VII, and the edu-
13 cation for homeless children and youth program
14 under subtitle B of title VII of the McKinney-Vento
15 Homeless Assistance Act, the amounts allotted to
16 the Department of the Interior under those pro-
17 grams.

18 “(2) AGREEMENT.—

19 “(A) IN GENERAL.—The Secretary and the
20 Secretary of the Interior shall enter into an
21 agreement, consistent with the requirements of
22 the programs specified in paragraph (1), for the
23 distribution and use of those program funds
24 under terms that the Secretary determines best
25 meet the purposes of those programs.

1 “(B) CONTENTS.—The agreement shall—

2 “(i) set forth the plans of the Sec-
3 retary of the Interior for the use of the
4 amount transferred and the achievement
5 measures to assess program effectiveness,
6 including measurable goals and objectives;
7 and

8 “(ii) be developed in consultation with
9 Indian tribes.

10 “(b) ADMINISTRATION.—The Department of the In-
11 terior may use not more than 1.5 percent of the funds
12 consolidated under this section for its costs related to the
13 administration of the funds transferred under this section.

14 **“PART C—COORDINATION OF PROGRAMS; CON-**
15 **SOLIDATED STATE AND LOCAL PLANS AND**
16 **APPLICATIONS**

17 **“SEC. 9301. PURPOSE.**

18 “The purposes of this part are—

19 “(1) to improve teaching and learning by en-
20 couraging greater cross-program coordination, plan-
21 ning, and service delivery;

22 “(2) to provide greater flexibility to State and
23 local authorities through consolidated plans, applica-
24 tions, and reporting; and

1 “(3) to enhance the integration of programs
2 under this Act with State and local programs.

3 **“SEC. 9302. OPTIONAL CONSOLIDATED STATE PLANS OR**
4 **APPLICATIONS.**

5 “(a) GENERAL AUTHORITY.—

6 “(1) SIMPLIFICATION.—In order to simplify ap-
7 plication requirements and reduce the burden for
8 State educational agencies under this Act, the Sec-
9 retary, in accordance with subsection (b), shall es-
10 tablish procedures and criteria under which, after
11 consultation with the Governor, a State educational
12 agency may submit a consolidated State plan or a
13 consolidated State application meeting the require-
14 ments of this section for—

15 “(A) each of the covered programs in
16 which the State participates; and

17 “(B) such other programs as the Secretary
18 may designate.

19 “(2) CONSOLIDATED APPLICATIONS AND
20 PLANS.—After consultation with the Governor, a
21 State educational agency that submits a consolidated
22 State plan or a consolidated State application under
23 this section shall not be required to submit separate
24 State plans or applications under any of the pro-
25 grams to which the consolidated State plan or con-

1 consolidated State application under this section ap-
2 plies.

3 “(b) COLLABORATION.—

4 “(1) IN GENERAL.—In establishing criteria and
5 procedures under this section, the Secretary shall
6 collaborate with State educational agencies and, as
7 appropriate, with other State agencies, local edu-
8 cational agencies, public and private nonprofit agen-
9 cies, organizations, and institutions, private schools,
10 and representatives of parents, students, and teach-
11 ers.

12 “(2) CONTENTS.—Through the collaborative
13 process described in paragraph (1), the Secretary
14 shall establish, for each program under this Act to
15 which this section applies, the descriptions, informa-
16 tion, assurances, and other material required to be
17 included in a consolidated State plan or consolidated
18 State application.

19 “(3) NECESSARY MATERIALS.—The Secretary
20 shall require only descriptions, information, assur-
21 ances (including assurances of compliance with ap-
22 plicable provisions regarding participation by private
23 school children and teachers), and other materials
24 that are absolutely necessary for the consideration of

1 the consolidated State plan or consolidated State ap-
2 plication.

3 **“SEC. 9303. CONSOLIDATED REPORTING.**

4 “(a) IN GENERAL.—In order to simplify reporting re-
5 quirements and reduce reporting burdens, the Secretary
6 shall establish procedures and criteria under which a State
7 educational agency, in consultation with the Governor of
8 the State, may submit a consolidated State annual report.

9 “(b) CONTENTS.—The report shall contain informa-
10 tion about the programs included in the report, including
11 the performance of the State under those programs, and
12 other matters as the Secretary determines are necessary,
13 such as monitoring activities.

14 “(c) REPLACEMENT.—The report shall replace sepa-
15 rate individual annual reports for the programs included
16 in the consolidated State annual report.

17 **“SEC. 9304. GENERAL APPLICABILITY OF STATE EDU-
18 CATIONAL AGENCY ASSURANCES.**

19 “(a) ASSURANCES.—A State educational agency, in
20 consultation with the Governor of the State, that submits
21 a consolidated State plan or consolidated State application
22 under this Act, whether separately or under section 9302,
23 shall have on file with the Secretary a single set of assur-
24 ances, applicable to each program for which the plan or
25 application is submitted, that provides that—

1 “(1) each such program will be administered in
2 accordance with all applicable statutes, regulations,
3 program plans, and applications;

4 “(2)(A) the control of funds provided under
5 each such program and title to property acquired
6 with program funds will be in a public agency, a
7 nonprofit private agency, institution, or organiza-
8 tion, or an Indian tribe, if the law authorizing the
9 program provides for assistance to those entities;
10 and

11 “(B) the public agency, nonprofit private agen-
12 cy, institution, or organization, or Indian tribe will
13 administer those funds and property to the extent
14 required by the authorizing law;

15 “(3) the State will adopt and use proper meth-
16 ods of administering each such program, including—

17 “(A) the enforcement of any obligations
18 imposed by law on agencies, institutions, orga-
19 nizations, and other recipients responsible for
20 carrying out each program;

21 “(B) the correction of deficiencies in pro-
22 gram operations that are identified through au-
23 dits, monitoring, or evaluation; and

24 “(C) the adoption of written procedures for
25 the receipt and resolution of complaints alleging

1 violations of law in the administration of the
2 programs;

3 “(4) the State will cooperate in carrying out
4 any evaluation of each such program conducted by
5 or for the Secretary or other Federal officials;

6 “(5) the State will use such fiscal control and
7 fund accounting procedures as will ensure proper
8 disbursement of, and accounting for, Federal funds
9 paid to the State under each such program;

10 “(6) the State will—

11 “(A) make reports to the Secretary as may
12 be necessary to enable the Secretary to perform
13 the Secretary’s duties under each such pro-
14 gram; and

15 “(B) maintain such records, provide such
16 information to the Secretary, and afford such
17 access to the records as the Secretary may find
18 necessary to carry out the Secretary’s duties;
19 and

20 “(7) before the plan or application was sub-
21 mitted to the Secretary, the State afforded a reason-
22 able opportunity for public comment on the plan or
23 application and considered such comment.

1 “(b) GEPA PROVISION.—Section 441 of the General
2 Education Provisions Act shall not apply to programs
3 under this Act.

4 **“SEC. 9305. CONSOLIDATED LOCAL PLANS OR APPLICA-**
5 **TIONS.**

6 “(a) GENERAL AUTHORITY.—

7 “(1) CONSOLIDATED PLAN.—A local edu-
8 cational agency receiving funds under more than one
9 covered program may submit plans or applications
10 to the State educational agency under those pro-
11 grams on a consolidated basis.

12 “(2) AVAILABILITY TO GOVERNOR.—The State
13 educational agency shall make any consolidated local
14 plans and applications available to the Governor.

15 “(b) REQUIRED CONSOLIDATED PLANS OR APPLICA-
16 TIONS.—A State educational agency that has an approved
17 consolidated State plan or application under section 9302
18 may require local educational agencies in the State receiv-
19 ing funds under more than one program included in the
20 consolidated State plan or consolidated State application
21 to submit consolidated local plans or applications under
22 those programs, but may not require those agencies to
23 submit separate plans.

24 “(c) COLLABORATION.—A State educational agency,
25 in consultation with the Governor, shall collaborate with

1 local educational agencies in the State in establishing pro-
2 cedures for the submission of the consolidated State plans
3 or consolidated State applications under this section.

4 “(d) NECESSARY MATERIALS.—The State edu-
5 cational agency shall require only descriptions, informa-
6 tion, assurances, and other material that are absolutely
7 necessary for the consideration of the local educational
8 agency plan or application.

9 **“SEC. 9306. OTHER GENERAL ASSURANCES.**

10 “(a) ASSURANCES.—Any applicant, other than a
11 State educational agency that submits a plan or applica-
12 tion under this Act, whether separately or pursuant to sec-
13 tion 9305, shall have on file with the State educational
14 agency a single set of assurances, applicable to each pro-
15 gram for which a plan or application is submitted, that
16 provides that—

17 “(1) each such program will be administered in
18 accordance with all applicable statutes, regulations,
19 program plans, and applications;

20 “(2)(A) the control of funds provided under
21 each such program and title to property acquired
22 with program funds will be in a public agency or in
23 a nonprofit private agency, institution, organization,
24 or Indian tribe, if the law authorizing the program
25 provides for assistance to those entities; and

1 “(B) the public agency, nonprofit private agen-
2 cy, institution, or organization, or Indian tribe will
3 administer the funds and property to the extent re-
4 quired by the authorizing statutes;

5 “(3) the applicant will adopt and use proper
6 methods of administering each such program,
7 including—

8 “(A) the enforcement of any obligations
9 imposed by law on agencies, institutions, orga-
10 nizations, and other recipients responsible for
11 carrying out each program; and

12 “(B) the correction of deficiencies in pro-
13 gram operations that are identified through au-
14 dits, monitoring, or evaluation;

15 “(4) the applicant will cooperate in carrying out
16 any evaluation of each such program conducted by
17 or for the State educational agency, the Secretary,
18 or other Federal officials;

19 “(5) the applicant will use such fiscal control
20 and fund accounting procedures as will ensure prop-
21 er disbursement of, and accounting for, Federal
22 funds paid to the applicant under each such pro-
23 gram;

24 “(6) the applicant will—

1 “(A) submit such reports to the State edu-
2 cational agency (which shall make the reports
3 available to the Governor) and the Secretary as
4 the State educational agency and Secretary may
5 require to enable the State educational agency
6 and the Secretary to perform their duties under
7 each such program; and

8 “(B) maintain such records, provide such
9 information, and afford such access to the
10 records as the State educational agency (after
11 consultation with the Governor) or the Sec-
12 retary may reasonably require to carry out the
13 State educational agency’s or the Secretary’s
14 duties; and

15 “(7) before the application was submitted, the
16 applicant afforded a reasonable opportunity for pub-
17 lic comment on the application and considered such
18 comment.

19 “(b) GEPA PROVISION.—Section 442 of the General
20 Education Provisions Act shall not apply to programs
21 under this Act.

1 **“PART D—WAIVERS**

2 **“SEC. 9401. WAIVERS OF STATUTORY AND REGULATORY RE-**
3 **QUIREMENTS.**

4 “(a) IN GENERAL.—Except as provided in subsection
5 (c), the Secretary may waive any statutory or regulatory
6 requirement of this Act for a State educational agency,
7 local educational agency, Indian tribe, or school through
8 a local educational agency, that—

9 “(1) receives funds under a program authorized
10 by this Act; and

11 “(2) requests a waiver under subsection (b).

12 “(b) REQUEST FOR WAIVER.—

13 “(1) IN GENERAL.—A State educational agen-
14 cy, local educational agency, or Indian tribe that de-
15 sires a waiver **【under this Act?】** shall submit a
16 waiver request to the Secretary that—

17 “(A) identifies the Federal programs af-
18 fected by the requested waiver;

19 “(B) describes which Federal statutory or
20 regulatory requirements are to be waived and
21 how the waiving of those requirements will—

22 “(i) increase the quality of instruction
23 for students; and

24 “(ii) improve the academic achieve-
25 ment of students;

1 “(C) describes, for each school year, specific,
2 measurable educational goals for the State
3 educational agency and for each local educational
4 agency, Indian tribe, or school that
5 would be affected by the waiver and the methods
6 to be used to measure annually such
7 progress for meeting such goals and outcomes;

8 “(D) explains how the waiver will assist
9 the State educational agency and each affected
10 local educational agency, Indian tribe, or school
11 in reaching those goals; and

12 “(E) describes how schools will continue to
13 provide assistance to the same populations
14 served by programs for which waivers are requested.
15 requested.

16 “(2) ADDITIONAL INFORMATION.—Such
17 requests—

18 “(A) may provide for waivers of requirements
19 applicable to State educational agencies,
20 local educational agencies, Indian tribes, and
21 schools; and

22 “(B) shall be developed and submitted—

23 “(i)(I) by local educational agencies
24 (on behalf of those agencies and schools)
25 to State educational agencies; and

1 “(II) by State educational agencies
2 (on behalf of, and based on the requests of,
3 local educational agencies) to the Sec-
4 retary; or

5 “(ii) by Indian tribes (on behalf of
6 schools operated by the tribes) to the Sec-
7 retary.

8 “(3) GENERAL REQUIREMENTS.—

9 “(A) STATE EDUCATIONAL AGENCIES.—In
10 the case of a waiver request submitted by a
11 State educational agency acting on its own be-
12 half, the State educational agency shall—

13 “(i) provide all interested local edu-
14 cational agencies in the State with notice
15 and a reasonable opportunity to comment
16 on the request;

17 “(ii) submit the comments to the Sec-
18 retary; and

19 “(iii) provide notice and information
20 to the public regarding the waiver request
21 in the manner in which the applying agen-
22 cy customarily provides similar notices and
23 information to the public.

24 “(B) LOCAL EDUCATIONAL AGENCIES.—In
25 the case of a waiver request submitted by a

1 local educational agency that receives funds
2 under this Act—

3 “(i) the request shall be reviewed by
4 the State educational agency and be ac-
5 companied by the comments, if any, of the
6 State educational agency; and

7 “(ii) notice and information regarding
8 the waiver request shall be provided to the
9 public by the agency requesting the waiver
10 in the manner in which that agency cus-
11 tomarily provides similar notices and infor-
12 mation to the public.

13 “(c) RESTRICTIONS.—The Secretary shall not waive
14 under this section any statutory or regulatory require-
15 ments relating to—

16 “(1) the allocation or distribution of funds to
17 States, local educational agencies, or other recipients
18 of funds under this Act;

19 “(2) maintenance of effort;

20 “(3) comparability of services;

21 “(4) use of Federal funds to supplement, not
22 supplant, non-Federal funds;

23 “(5) equitable participation of private school
24 students and teachers;

25 “(6) parental participation and involvement;

1 “(7) applicable civil rights requirements;

2 “(8) the requirement for a charter school under

3 **【subpart 1 of】** part B of title V;

4 “(9) the prohibitions regarding—

5 “(A) State aid in section 9523;

6 “(B) use of funds for religious worship or

7 instruction in section 9505; and

8 “(C) activities in section 9527; or

9 “(10) the selection of a school attendance area

10 or school under subsections (a) and (b) of section

11 1113, except that the Secretary may grant a waiver

12 to allow a school attendance area or school to par-

13 ticipate in activities under part A of title I if the

14 percentage of children from low-income families in

15 the school attendance area or who attend the school

16 is not more than 10 percentage points below the low-

17 est percentage of those children for any school at-

18 tendance area or school of the local educational

19 agency that meets the requirements of subsections

20 (a) and (b) of section 1113.

21 “(d) DURATION AND EXTENSION OF WAIVER.—

22 “(1) IN GENERAL.—Except as provided in para-

23 graph (2), a waiver approved by the Secretary under

24 this section may be for a period not to exceed 4

25 years.

1 “(2) EXTENSION.—The Secretary may extend
2 the period described in paragraph (1) if the Sec-
3 retary determines that—

4 “(A) the waiver has been effective in ena-
5 bling the State or affected recipient to carry out
6 the activities for which the waiver was re-
7 quested and the waiver has contributed to im-
8 proved student achievement; and

9 “(B) the extension is in the public interest.

10 “(e) REPORTS.—

11 “(1) LOCAL WAIVER.—A local educational agen-
12 cy that receives a waiver under this section shall, at
13 the end of the second year for which a waiver is re-
14 ceived under this section and each subsequent year,
15 submit a report to the State educational agency
16 that—

17 “(A) describes the uses of the waiver by
18 the agency or by schools;

19 “(B) describes how schools continued to
20 provide assistance to the same populations
21 served by the programs for which waivers were
22 granted; and

23 “(C) evaluates the progress of the agency
24 and of schools in improving the quality of in-

1 struction or the academic achievement of stu-
2 dents.

3 “(2) STATE WAIVER.—A State educational
4 agency that receives reports required under para-
5 graph (1) shall annually submit a report to the Sec-
6 retary that is based on those reports and contains
7 such information as the Secretary may require.

8 “(3) INDIAN TRIBE WAIVER.—An Indian tribe
9 that receives a waiver under this section shall annu-
10 ally submit a report to the Secretary that—

11 “(A) describes the uses of the waiver by
12 schools operated by the tribe; and

13 “(B) evaluates the progress of those
14 schools in improving the quality of instruction
15 or the academic achievement of students.

16 “(4) REPORT TO CONGRESS.—Beginning in fis-
17 cal year 2002 and for each subsequent year, the Sec-
18 retary shall submit to the Committee on Education
19 and the Workforce of the House of Representatives
20 and the Committee on Health, Education, Labor
21 and Pensions of the Senate a report—

22 “(A) summarizing the uses of waivers by
23 State educational agencies, local educational
24 agencies, Indian tribes, and schools; and

25 “(B) describing whether the waivers—

1 “(i) increased the quality of instruc-
2 tion to students; or

3 “(ii) improved the academic achieve-
4 ment of students.

5 “(f) TERMINATION OF WAIVERS.—The Secretary
6 shall terminate a waiver under this section if the Secretary
7 determines, after notice and an opportunity for a hearing,
8 that the performance of the State or other recipient af-
9 fected by the waiver has been inadequate to justify a con-
10 tinuation of the waiver or if the waiver is no longer nec-
11 essary to achieve its original purposes.

12 “(g) PUBLICATION.—A notice of the Secretary’s deci-
13 sion to grant each waiver under subsection (a) shall be
14 published in the Federal Register and the Secretary shall
15 provide for the dissemination of the notice to State edu-
16 cational agencies, interested parties, including educators,
17 parents, students, advocacy and civil rights organizations,
18 and the public.

19 **“PART E—UNIFORM PROVISIONS**

20 **“Subpart 1—Private Schools**

21 **“SEC. 9501. PARTICIPATION BY PRIVATE SCHOOL CHIL-**
22 **DREN AND TEACHERS.**

23 “(a) PRIVATE SCHOOL PARTICIPATION.—

24 “(1) IN GENERAL.—Except as otherwise pro-
25 vided in this Act, to the extent consistent with the

1 number of eligible children in areas served by a
2 State educational agency, local educational agency,
3 educational service agency, consortium of those
4 agencies, or another entity receiving financial assist-
5 ance under a program specified in subsection (b),
6 who are enrolled in private elementary schools and
7 secondary schools in areas served by such agency,
8 consortium, or entity, the agency, consortium, or en-
9 tity shall, after timely and meaningful consultation
10 with appropriate private school officials—

11 “(A) provide to those children and their
12 teachers or other educational personnel, on an
13 equitable basis, special educational services or
14 other benefits that address their needs under
15 the program; and

16 “(B) provide to their teachers or other
17 educational personnel serving those children, on
18 equitable basis, training and professional devel-
19 opment services under the program.

20 “(2) SECULAR, NEUTRAL, AND NONIDEOLOG-
21 ICAL SERVICES OR BENEFITS.—Educational services
22 or other benefits, including materials and equipment,
23 provided under this section, shall be secular, neutral,
24 and nonideological.

1 “(3) SPECIAL RULE.—Educational services and
2 other benefits provided under this section for private
3 school children, teachers, and other educational per-
4 sonnel shall be equitable in comparison to services
5 and other benefits for public school children, teach-
6 ers, and other educational personnel participating in
7 the program and shall be provided in a timely man-
8 ner.

9 “(4) EXPENDITURES.—Expenditures for edu-
10 cational services and other benefits provided under
11 this section for eligible private school children, their
12 teachers, and other educational personnel serving
13 those children shall be equal, taking into account the
14 number and educational needs of the children to be
15 served, to the expenditures for participating public
16 school children.

17 “(5) PROVISION OF SERVICES.—An agency,
18 consortium, or entity described in subsection (a)(1)
19 of this section may provide those services directly or
20 through contracts with public and private agencies,
21 organizations, and institutions.

22 “(b) APPLICABILITY.—

23 “(1) IN GENERAL.—This section applies to pro-
24 grams under—

1 “(A) subparts 1 and 3 of part B of title
2 I;
3 “(B) part C of title I;
4 “(C) part A of title II;
5 “(D) part B of title II;
6 “(E) part D of title II;
7 “(F) part A of title III;
8 “(G) part A of title IV; and
9 “(H) part B of title IV.

10 “(2) DEFINITION.—For the purpose of this sec-
11 tion, the term ‘eligible children’ means children eligi-
12 ble for services under a program described in para-
13 graph (1).

14 “(c) CONSULTATION.—

15 “(1) IN GENERAL.—To ensure timely and
16 meaningful consultation, a State educational agency,
17 local educational agency, educational service agency,
18 consortium of those agencies, or entity shall consult
19 with appropriate private school officials during the
20 design and development of the programs under this
21 Act, on issues such as—

22 “(A) how the children’s needs will be iden-
23 tified;

24 “(B) what services will be offered;

1 “(C) how, where, and by whom the services
2 will be provided;

3 “(D) how the services will be assessed and
4 how the results of the assessment will be used
5 to improve those services;

6 “(E) the size and scope of the equitable
7 services to be provided to the eligible private
8 school children, teachers, and other educational
9 personnel and the amount of funds available for
10 those services; and

11 “(F) how and when the agency, consor-
12 tium, or entity will make decisions about the
13 delivery of services, including a thorough con-
14 sideration and analysis of the views of the pri-
15 vate school officials on the provision of contract
16 services through potential third-party providers.

17 “(2) DISAGREEMENT.—If the agency, consor-
18 tium, or entity disagrees with the views of the pri-
19 vate school officials on the provision of services
20 through a contract, the agency, consortium, or entity
21 shall provide to the private school officials a written
22 explanation of the reasons why the local educational
23 agency has chosen not to use a contractor.

24 “(3) TIMING.—The consultation required by
25 paragraph (1) shall occur before the agency, consor-

1 tium, or entity makes any decision that affects the
2 opportunities of eligible private school children,
3 teachers, and other educational personnel to partici-
4 pate in programs under this Act, and shall continue
5 throughout the implementation and assessment of
6 activities under this section.

7 “(4) DISCUSSION REQUIRED.—The consultation
8 required by paragraph (1) shall include a discussion
9 of service delivery mechanisms that the agency, con-
10 sortium, or entity could use to provide equitable
11 services to eligible private school children, teachers,
12 administrators, and other staff.

13 “(d) PUBLIC CONTROL OF FUNDS.—

14 “(1) IN GENERAL.—The control of funds used
15 to provide services under this section, and title to
16 materials, equipment, and property purchased with
17 those funds, shall be in a public agency for the uses
18 and purposes provided in this Act, and a public
19 agency shall administer the funds and property.

20 “(2) PROVISION OF SERVICES.—

21 “(A) IN GENERAL.—The provision of serv-
22 ices under this section shall be provided—

23 “(i) by employees of a public agency;

24 or

1 “(ii) through contract by the public
2 agency with an individual, association,
3 agency, organization, or other entity.

4 “(B) INDEPENDENCE; PUBLIC AGENCY.—
5 In the provision of those services, the employee,
6 person, association, agency, organization, or
7 other entity shall be independent of the private
8 school and of any religious organization, and
9 the employment or contract shall be under the
10 control and supervision of the public agency.

11 “(C) COMMINGLING OF FUNDS PROHIB-
12 ITED.—Funds used to provide services under
13 this section shall not be commingled with non-
14 Federal funds.

15 **“SEC. 9502. STANDARDS FOR BY-PASS.**

16 “(a) IN GENERAL.—If, by reason of any provision of
17 law, a State educational agency, local educational agency,
18 educational service agency, consortium of those agencies,
19 or other entity is prohibited from providing for the partici-
20 pation in programs of children enrolled in, or teachers or
21 other educational personnel from, private elementary
22 schools and secondary schools, on an equitable basis, or
23 if the Secretary determines that the agency, consortium,
24 or entity has substantially failed or is unwilling to provide

1 for that participation, as required by section 9501, the
2 Secretary shall—

3 “(1) waive the requirements of that section for
4 the agency, consortium, or entity; and

5 “(2) arrange for the provision of equitable serv-
6 ices to those children, teachers, or other educational
7 personnel through arrangements that shall be sub-
8 ject to the requirements of this section and of sec-
9 tions 9501, 9503, and 9504.

10 “(b) DETERMINATION.—In making the determina-
11 tion under subsection (a), the Secretary shall consider one
12 or more factors, including the quality, size, scope, and lo-
13 cation of the program, and the opportunity of private
14 school children, teachers, and other educational personnel
15 to participate in the program.

16 **“SEC. 9503. COMPLAINT PROCESS FOR PARTICIPATION OF**
17 **PRIVATE SCHOOL CHILDREN.**

18 “(a) PROCEDURES FOR COMPLAINTS.—The Sec-
19 retary shall develop and implement written procedures for
20 receiving, investigating, and resolving complaints from
21 parents, teachers, or other individuals and organizations
22 concerning violations of section 9501 by a State edu-
23 cational agency, local educational agency, educational
24 service agency, consortium of those agencies, or entity.
25 The individual or organization shall submit the complaint

1 to the State educational agency for a written resolution
2 by the State educational agency within a reasonable period
3 of time.

4 “(b) APPEALS TO SECRETARY.—The resolution may
5 be appealed by an interested party to the Secretary not
6 later than 30 days after the State educational agency re-
7 solves the complaint or fails to resolve the complaint with-
8 in a reasonable period of time. The appeal shall be accom-
9 panied by a copy of the State educational agency’s resolu-
10 tion, and a complete statement of the reasons supporting
11 the appeal. The Secretary shall investigate and resolve the
12 appeal not later than 120 days after receipt of the appeal.

13 **“SEC. 9504. BY-PASS DETERMINATION PROCESS.**

14 “(a) REVIEW.—

15 “(1) IN GENERAL.—

16 “(A) WRITTEN OBJECTIONS.—The Sec-
17 retary shall not take any final action under sec-
18 tion 9502 until the State educational agency,
19 local educational agency, educational service
20 agency, consortium of those agencies, or entity
21 affected by the action has had an opportunity,
22 for not less than 45 days after receiving written
23 notice thereof, to submit written objections and
24 to appear before the Secretary to show cause
25 why that action should not be taken.

1 “(B) PRIOR TO REDUCTION.—Pending
2 final resolution of any investigation or com-
3 plaint that could result in a determination
4 under this section, the Secretary may withhold
5 from the allocation of the affected State or local
6 educational agency the amount estimated by the
7 Secretary to be necessary to pay the cost of
8 those services.

9 “(2) PETITION FOR REVIEW.—

10 “(A) PETITION.—If the affected agency,
11 consortium, or entity is dissatisfied with the
12 Secretary’s final action after a proceeding
13 under paragraph (1), the agency, consortium,
14 or entity may, within 60 days after notice of
15 that action, file with the United States court of
16 appeals for the circuit in which the State is lo-
17 cated a petition for review of that action.

18 “(B) TRANSMISSION.—A copy of the peti-
19 tion shall be forthwith transmitted by the clerk
20 of the court to the Secretary.

21 “(C) FILING.—The Secretary, upon receipt
22 of the copy of the petition, shall file in the court
23 the record of the proceedings on which the Sec-
24 retary based the action, as provided in section
25 2112 of title 28, United States Code.

1 “(3) FINDINGS OF FACT.—

2 “(A) IN GENERAL.—The findings of fact
3 by the Secretary, if supported by substantial
4 evidence, shall be conclusive, but the court, for
5 good cause shown, may remand the case to the
6 Secretary to take further evidence and the Sec-
7 retary may then make new or modified findings
8 of fact and may modify the Secretary’s previous
9 action, and shall file in the court the record of
10 the further proceedings.

11 “(B) NEW OR MODIFIED FINDINGS.—Any
12 new or modified findings of fact shall likewise
13 be conclusive if supported by substantial evi-
14 dence.

15 “(4) JURISDICTION.—

16 “(A) IN GENERAL.—Upon the filing of a
17 petition, the court shall have jurisdiction to af-
18 firm the action of the Secretary or to set the
19 action aside, in whole or in part.

20 “(B) JUDGMENT.—The judgment of the
21 court shall be subject to review by the Supreme
22 Court of the United States upon certiorari or
23 certification as provided in section 1254 of title
24 28, United States Code.

1 “(b) DETERMINATION.—Any determination by the
2 Secretary under this section shall continue in effect until
3 the Secretary determines, in consultation with that agen-
4 cy, consortium, or entity and representatives of the af-
5 fected private school children, teachers, or other edu-
6 cational personnel, that there will no longer be any failure
7 or inability on the part of the agency, consortium, or enti-
8 ty to meet the applicable requirements of section 9501 or
9 any other provision of this Act.

10 “(c) PAYMENT FROM STATE ALLOTMENT.—When
11 the Secretary arranges for services pursuant to this sec-
12 tion, the Secretary shall, after consultation with the ap-
13 propriate public and private school officials, pay the cost
14 of those services, including the administrative costs of ar-
15 ranging for those services, from the appropriate allocation
16 or allocations under this Act.

17 “(d) PRIOR DETERMINATION.—Any by-pass deter-
18 mination by the Secretary under this Act as in effect on
19 the day preceding the date of enactment of the No Child
20 Left Behind Act of 2001 shall remain in effect to the ex-
21 tent the Secretary determines that that determination is
22 consistent with the purpose of this section.

1 **“SEC. 9505. PROHIBITION AGAINST FUNDS FOR RELIGIOUS**
2 **WORSHIP OR INSTRUCTION.**

3 “Nothing contained in this Act shall be construed to
4 authorize the making of any payment under this Act for
5 religious worship or instruction.

6 **“SEC. 9506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.**

7 “(a) APPLICABILITY TO NONRECIPIENT PRIVATE
8 SCHOOLS.—Nothing in this Act shall be construed to af-
9 fect any private school that does not receive funds or serv-
10 ices under this Act, nor shall any student who attends a
11 private school that does not receive funds or services under
12 this Act be required to participate in any assessment ref-
13 erenced in this Act.

14 “(b) APPLICABILITY TO HOME SCHOOLS.—Nothing
15 in this Act shall be construed to affect a home school,
16 whether or not a home school is treated as a home school
17 or a private school under State law, nor shall any student
18 schooled at home be required to participate in any assess-
19 ment referenced in this Act.

20 “(c) RULE OF CONSTRUCTION ON PROHIBITION OF
21 FEDERAL CONTROL OVER NONPUBLIC SCHOOLS.—Noth-
22 ing in this Act shall be construed to permit, allow, encour-
23 age, or authorize any Federal control over any aspect of
24 any private, religious, or home school, whether or not a
25 home school is treated as a private school or home school
26 under State law. This section shall not be construed to

1 bar private, religious, or home schools from participation
2 in programs or services under this Act.

3 “(d) RULE OF CONSTRUCTION ON STATE AND LOCAL
4 EDUCATIONAL AGENCY MANDATES.—Nothing in this Act
5 shall be construed to require any State or local educational
6 agency that receives funds under this Act to mandate, di-
7 rect, or control the curriculum of a private or home school,
8 regardless of whether or not a home school is treated as
9 a private school under state law, nor shall any funds under
10 this Act be used for this purpose.

11 **“Subpart 2—Other Provisions**

12 **“SEC. 9521. MAINTENANCE OF EFFORT.**

13 “(a) IN GENERAL.—A local educational agency may
14 receive funds under a covered program for any fiscal year
15 only if the State educational agency finds that either the
16 combined fiscal effort per student or the aggregate ex-
17 penditures of the agency and the State with respect to
18 the provision of free public education by the agency for
19 the preceding fiscal year was not less than 90 percent of
20 the combined fiscal effort or aggregate expenditures for
21 the second preceding fiscal year.

22 “(b) REDUCTION IN CASE OF FAILURE TO MEET.—

23 “(1) IN GENERAL.—The State educational
24 agency shall reduce the amount of the allocation of
25 funds under a covered program in any fiscal year in

1 the exact proportion by which a local educational
2 agency fails to meet the requirement of subsection
3 (a) of this section by falling below 90 percent of
4 both the combined fiscal effort per student and ag-
5 gregate expenditures (using the measure most favor-
6 able to the local agency).

7 “(2) SPECIAL RULE.—No such lesser amount
8 shall be used for computing the effort required
9 under subsection (a) of this section for subsequent
10 years.

11 “(c) WAIVER.—The Secretary may waive the require-
12 ments of this section if the Secretary determines that a
13 waiver would be equitable due to—

14 “(1) exceptional or uncontrollable cir-
15 cumstances, such as a natural disaster; or

16 “(2) a precipitous decline in the financial re-
17 sources of the local educational agency.

18 **“SEC. 9522. PROHIBITION REGARDING STATE AID.**

19 “A State shall not take into consideration payments
20 under this Act (other than under title VIII) in determining
21 the eligibility of any local educational agency in that State
22 for State aid, or the amount of State aid, with respect
23 to free public education of children.

1 **“SEC. 9523. PRIVACY OF ASSESSMENT RESULTS.**

2 “Any results from an individual assessment referred
3 to in this Act of a student that become part of the edu-
4 cation records of the student shall have the protections
5 provided in section 444 of the General Education Provi-
6 sions Act.

7 **“SEC. 9524. SCHOOL PRAYER.**

8 “(a) GUIDANCE.—The Secretary shall provide and
9 revise guidance, not later than September 1, 2002, and
10 of every second year thereafter, to State educational agen-
11 cies, local educational agencies, and the public on constitu-
12 tionally protected prayer in public elementary schools and
13 secondary schools, including making the guidance avail-
14 able on the Internet. The guidance shall be reviewed, prior
15 to distribution, by the Office of Legal Counsel of the De-
16 partment of Justice for verification that the guidance rep-
17 resents the current state of the law concerning constitu-
18 tionally protected prayer in public elementary schools and
19 secondary schools.

20 “(b) CERTIFICATION.—As a condition of receiving
21 funds under this Act, a local educational agency shall cer-
22 tify in writing to the State educational agency involved
23 that no policy of the local educational agency prevents,
24 or otherwise denies participation in, constitutionally pro-
25 tected prayer in public elementary schools and secondary
26 schools, as detailed in the guidance required under sub-

1 section (a). The certification shall be provided by October
2 1 of each year. The State educational agency shall report
3 to the Secretary by November 1 of each year a list of those
4 local educational agencies that have not filed the certifi-
5 cation or against which complaints have been made to the
6 State educational agency that the local educational agen-
7 cies are not in compliance with this section.

8 “(c) ENFORCEMENT.—The Secretary is authorized
9 and directed to effectuate subsection (b) by issuing, and
10 securing compliance with, rules or orders with respect to
11 a local educational agency that fails to certify, or is found
12 to have certified in bad faith, that no policy of the local
13 educational agency prevents, or otherwise denies participa-
14 tion in, constitutionally protected prayer in public elemen-
15 tary schools and secondary schools.

16 **“SEC. 9525. EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES.**

17 “(a) SHORT TITLE.—This section may be cited as the
18 ‘Boy Scouts of America Equal Access Act’.

19 “(b) IN GENERAL.—

20 “(1) EQUAL ACCESS.—Notwithstanding any
21 other provision of law, no public elementary school,
22 public secondary school, local educational agency, or
23 State educational agency that has a designated open
24 forum or a limited public forum and that receives
25 funds made available through the Department shall

1 deny equal access or a fair opportunity to meet to,
2 or discriminate against, any group officially affili-
3 ated with the Boy Scouts of America, or any other
4 youth group listed in title 36 of the United States
5 Code (as a patriotic society), that wishes to conduct
6 a meeting within that designated open forum or lim-
7 ited public forum, including denying such access or
8 opportunity or discriminating for reasons based on
9 the membership or leadership criteria or oath of alle-
10 giance to God and country of the Boy Scouts of
11 America or of the youth group listed in title 36 of
12 the United States Code (as a patriotic society).

13 “(2) VOLUNTARY SPONSORSHIP.—Nothing in
14 this section shall be construed to require any
15 **【school】 【agency?】 【or a school served by an agen-**
16 **cy?】** to sponsor any group officially affiliated with
17 the Boy Scouts of America, or any other youth
18 group listed in title 36 of the United States Code (as
19 a patriotic society). **【see subsection (c)(2) below】**

20 “(c) TERMINATION OF ASSISTANCE AND OTHER AC-
21 TION.—

22 “(1) DEPARTMENTAL ACTION.—The Secretary
23 is authorized and directed to effectuate subsection
24 (b) by issuing and securing compliance with rules or
25 orders with respect to a public elementary school,

1 public secondary school, local educational agency, or
2 State educational agency that receives funds made
3 available through the Department and that denies
4 equal access, or a fair opportunity to meet, or dis-
5 criminate, as described in subsection (b).

6 “(2) PROCEDURE.—The Secretary shall issue
7 and secure compliance with the rules or orders,
8 under paragraph (1), through the Office for Civil
9 Rights and in a manner consistent with the proce-
10 dure used by a Federal department or agency under
11 section 602 of the Civil Rights Act of 1964. If the
12 public school or agency does not comply with the
13 rules or orders, then notwithstanding any other pro-
14 vision of law, no funds made available through the
15 Department shall be provided to a school that fails
16 to comply with such rules or orders or to any agency
17 or school served by an agency that fails to comply
18 with such rules or orders.

19 “(3) JUDICIAL REVIEW.—Any action taken by
20 the Secretary under paragraph (1) shall be subject
21 to the judicial review described in section 603 of the
22 Civil Rights Act of 1964. Any person aggrieved by
23 the action may obtain that judicial review in the
24 manner, and to the extent, provided in section 603
25 of such Act.

1 “(d) DEFINITION AND RULE.—

2 “(1) DEFINITION.—In this section, the term
3 ‘youth group’ means any group or organization in-
4 tended to serve young people under the age of 21.

5 “(2) RULE.—For the purpose of this section,
6 an elementary school or secondary school has a lim-
7 ited public forum whenever the school involved
8 grants an offering to, or opportunity for, one or
9 more outside youth or community groups to meet on
10 school premises or in school facilities before or after
11 the hours during which attendance at the school is
12 compulsory.

13 **“SEC. 9526. GENERAL PROHIBITIONS.**

14 “(a) PROHIBITION.—None of the funds authorized
15 under this Act shall be used—

16 “(1) to develop or distribute materials, or oper-
17 ate programs or courses of instruction directed at
18 youth, that are designed to promote or encourage
19 sexual activity, whether homosexual or heterosexual;

20 “(2) to distribute or to aid in the distribution
21 by any organization of legally obscene materials to
22 minors on school grounds;

23 “(3) to provide sex education or HIV-prevention
24 education in schools unless that instruction is age

1 appropriate and includes the health benefits of absti-
2 nence; or

3 “(4) to operate a program of contraceptive dis-
4 tribution in schools.

5 “(b) LOCAL CONTROL.—Nothing in this section shall
6 be construed to—

7 “(1) authorize an officer or employee of the
8 Federal Government to mandate, direct, review, or
9 control a State, local educational agency, or school’s
10 instructional content, curriculum, and related activi-
11 ties;

12 “(2) limit the application of the General Edu-
13 cation Provisions Act;

14 “(3) require the distribution of scientifically or
15 medically false or inaccurate materials or to prohibit
16 the distribution of scientifically or medically true or
17 accurate materials; or

18 “(4) create any legally enforceable right.

19 **“SEC. 9527. PROHIBITIONS ON FEDERAL GOVERNMENT AND**
20 **USE OF FEDERAL FUNDS.**

21 “(a) GENERAL PROHIBITION.—Nothing in this Act
22 shall be construed to authorize an officer or employee of
23 the Federal Government to mandate, direct, or control a
24 State, local educational agency, or school’s curriculum,
25 program of instruction, or allocation of State or local re-

1 sources, or mandate a State or any subdivision thereof to
2 spend any funds or incur any costs not paid for under
3 this Act.

4 “(b) PROHIBITION ON ENDORSEMENT OF CUR-
5 RICULUM.—Notwithstanding any other prohibition of Fed-
6 eral law, no funds provided to the Department under this
7 Act may be used by the Department to endorse, approve,
8 or sanction any curriculum designed to be used in an ele-
9 mentary school or secondary school.

10 “(c) PROHIBITION ON REQUIRING FEDERAL AP-
11 PROVAL OR CERTIFICATION OF STANDARDS.—

12 “(1) IN GENERAL.—Notwithstanding any other
13 provision of Federal law, no State shall be required
14 to have academic content or student academic
15 achievement standards approved or certified by the
16 Federal Government, in order to receive assistance
17 under this Act.

18 “(2) RULE OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed to affect require-
20 ments under title I or part A of title VI.

21 “(d) RULE OF CONSTRUCTION ON BUILDING STAND-
22 ARDS.—Nothing in this Act shall be construed to mandate
23 national school building standards for a State, local edu-
24 cational agency, or school.

1 **“SEC. 9528. ARMED FORCES RECRUITER ACCESS TO STU-**
2 **DENTS AND STUDENT RECRUITING INFORMA-**
3 **TION.**

4 “(a) POLICY.—

5 “(1) ACCESS TO STUDENT RECRUITING INFOR-
6 MATION.—Notwithstanding section 444(a)(5)(B) of
7 the General Education Provisions Act and except as
8 provided in paragraph (2), each local educational
9 agency receiving assistance under this Act shall pro-
10 vide, on a request made by military recruiters or an
11 institution of higher education, access to secondary
12 school students names, addresses, and telephone list-
13 ings.

14 “(2) CONSENT.—A secondary school student or
15 the parent of the student may request that the stu-
16 dent’s name, address, and telephone listing described
17 in paragraph (1) not be released without prior writ-
18 ten parental consent, and the local educational agen-
19 cy or private school shall notify parents of the option
20 to make a request and shall comply with any re-
21 quest.

22 “(3) SAME ACCESS TO STUDENTS.—Each local
23 educational agency receiving assistance under this
24 Act shall provide military recruiters the same access
25 to secondary school students as is provided generally

1 to post secondary educational institutions or to pro-
2 spective employers of those students.

3 “(b) NOTIFICATION.—The Secretary, in consultation
4 with the Secretary of Defense, shall, not later than 120
5 days after the date of enactment of the No Child Left Be-
6 hind Act of 2001, notify principals, school administrators,
7 and other educators about the requirements of this sec-
8 tion.

9 “(c) EXCEPTION.—The requirements of this section
10 do not apply to a private secondary school that maintains
11 a religious objection to service in the Armed Forces if the
12 objection is verifiable through the corporate or other orga-
13 nizational documents or materials of that school.

14 “(d) SPECIAL RULE.—A local educational agency
15 prohibited by Connecticut State law (either explicitly by
16 statute or through statutory interpretation by the State
17 Supreme Court or State Attorney General) from providing
18 military recruiters with information or access as required
19 by this section shall have until May 31, 2002, to comply
20 with that requirement.

21 **“SEC. 9529. PROHIBITION ON FEDERALLY SPONSORED**
22 **TESTING.**

23 “(a) GENERAL PROHIBITION.—Notwithstanding any
24 other provision of Federal law and except as provided in
25 subsection (b), no funds provided under this Act to the

1 Secretary or to the recipient of any award may be used
2 to develop, pilot test, field test, implement, administer, or
3 distribute any federally sponsored national test in reading,
4 mathematics, or any other subject, unless specifically and
5 explicitly authorized by law.

6 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
7 international comparative assessments developed under
8 the authority of section 404(a)(6) of the National Edu-
9 cation Statistics Act of 1994 and administered to only a
10 representative sample of pupils in the United States and
11 in foreign nations.

12 **“SEC. 9530. LIMITATIONS ON NATIONAL TESTING OR CER-**
13 **TIFICATION FOR TEACHERS.**

14 “(a) MANDATORY NATIONAL TESTING OR CERTIFI-
15 CATION OF TEACHERS.—Notwithstanding any other pro-
16 vision of this Act or any other provision of law, no funds
17 available to the Department or otherwise available under
18 this Act may be used for any purpose relating to a manda-
19 tory nationwide test or certification of teachers or edu-
20 cation paraprofessionals, including any planning, develop-
21 ment, implementation, or administration of [such] test or
22 certification.

23 “(b) PROHIBITION ON WITHHOLDING FUNDS.—The
24 Secretary is prohibited from withholding funds from any
25 State educational agency or local educational agency if the

1 State educational agency or local educational agency fails
2 to adopt a specific method of teacher or paraprofessional
3 certification.

4 **“SEC. 9531. PROHIBITION ON NATIONWIDE DATABASE.**

5 “Nothing in this Act (other than section [1308(b)])
6 shall be construed to authorize the development of a na-
7 tionwide database of personally identifiable information on
8 individuals involved in studies or other collections of data
9 under this Act.

10 **“SEC. 9532. PROHIBITION ON DISCRIMINATION.**

11 “Nothing in this Act shall be construed to require,
12 authorize, or permit, the Secretary, or a State educational
13 agency, local educational agency, or school to grant to a
14 student, or deny or impose upon a student, any financial
15 or educational benefit or burden, in violation of the fifth
16 or 14th amendments to the Constitution or other law re-
17 lating to discrimination in the provision of federally fund-
18 ed programs or activities.

19 **“SEC. 9533. CIVIL RIGHTS OF BENEFICIARIES.**

20 “(a) IN GENERAL.—Nothing in this Act shall be con-
21 strued to permit discrimination on the basis of race, color,
22 religion, sex (except as otherwise permitted under title IX
23 of the Education Amendments of 1972), national origin,
24 or disability in any program funded under this Act.

1 “(b) RULE OF CONSTRUCTION.—Nothing in this Act
2 shall be construed to require the disruption of services to
3 an eligible child enrolled in or participating in a program
4 offering supplemental services authorized under this Act
5 or services provided under part B of title IV, by a State
6 educational agency, local educational agency, community-
7 based organization, or a public or private entity that ap-
8 plies for funds under this Act.

9 **“SEC. 9534. RULEMAKING.**

10 “The Secretary shall issue regulations under this Act
11 only to the extent that such regulations are necessary to
12 ensure that there is compliance with the specific require-
13 ments and assurances required by this Act.

14 **“SEC. 9535. SEVERABILITY.**

15 “If any provision of this Act is held invalid, the re-
16 mainder of this Act shall be unaffected thereby.

17 **“PART F—EVALUATIONS**

18 **“SEC. 9601. EVALUATIONS.**

19 “(a) RESERVATION OF FUNDS.—Except as provided
20 in subsections (b) and (c), the Secretary may reserve not
21 more than 0.5 percent of the amount appropriated to
22 carry out each categorical program and demonstration
23 project authorized under this Act—

24 “(1) to conduct—

1 “(A) comprehensive evaluations of the pro-
2 gram or project; and

3 “(B) studies of the effectiveness of the pro-
4 gram or project and its administrative impact
5 on schools and local educational agencies;

6 “(2) to evaluate the aggregate short- and long-
7 term effects and cost efficiencies across Federal pro-
8 grams assisted or authorized under this Act and re-
9 lated Federal preschool, elementary, and secondary
10 programs under any other Federal law; and

11 “(3) to increase the usefulness of evaluations of
12 grant recipients in order to ensure the continuous
13 progress of the program or project by improving the
14 quality, timeliness, efficiency, and use of information
15 relating to performance under the program or
16 project.

17 “(b) TITLE I EXCLUDED.—The Secretary may not
18 reserve under subsection (a) funds appropriated to carry
19 out any program authorized under title I.

20 “(c) EVALUATION ACTIVITIES AUTHORIZED ELSE-
21 WHERE.—If, under any other provision of this Act (other
22 than title I), funds are authorized to be reserved or used
23 for evaluation activities with respect to a program or
24 project, the Secretary may not reserve additional funds

- 1 under this section for the evaluation of that program or
- 2 project.